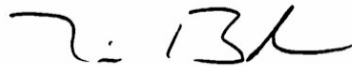


Diversity of citizenship provides the original jurisdictional hook for this personal injury action brought by Ronald and Amy Hargis, Indiana citizens. 28 U.S.C. § 1332. But Flutes also claims Indiana citizenship [Docket No. 81 ¶ 4], so the Court cannot have jurisdiction over its claim by way of diversity. Instead, as Flutes asserted in its statement, the Court has supplemental jurisdiction under 28 U.S.C. § 1367. Section 1367 provides a three-subsection test

for supplemental jurisdiction. Flutes satisfies subsection (a) because its worker's compensation lien is so related to the original personal injury action as to form part of the same case or controversy. Flutes also satisfies subsection (b), which cuts off supplemental jurisdiction over claims brought by plaintiffs (or parties seeking to intervene as plaintiffs) when original jurisdiction is based on diversity and would be destroyed by the proposed claims. Although Flutes and the Hargises are not diverse, Flutes avoids subsection (b) by intervening as a defendant, which is proper given that its claim is against Ronald Hargis for recovery of its lien. Finally, Flutes's claim does not trigger any of subsection (c)'s four reasons to decline jurisdiction.

Satisfied of its jurisdiction under 28 U.S.C. § 1367 and that intervention is permitted under Rule 24(a)(2), the Court grants Flutes's motion to intervene as a defendant. [Docket No. 79.]

Dated: 12/02/2010



Tim A. Baker
United States Magistrate Judge
Southern District of Indiana

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